HIPAA INFORMATION SERIES

2. Are You A Covered Entity?

This is the second paper in a series of papers developed by the Centers for Medicare and Medicaid Services (CMS) to help providers understand what the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and Administrative Simplification means for their practices.

HIPAA Administrative Simplification is a landmark law that promotes standardization and efficiency in the health care industry.

HIPAA may affect your office in many ways. It mandates new standards and procedures that will take time, money and resources to implement. However, at the same time, HIPAA offers opportunities to reduce costs, automate processes, lower errors and improve service. To take advantage of HIPAA's benefits, the first question a provider should ask is "does HIPAA apply to me in my current business environment?"

TIP: CMS has developed a "Covered Entity Decision Tool" for providers. Visit http://www.cms.hhs.gov/hipaa/hipaa2 to access this tool and other educational materials.

Covered Entities

As discussed in the first paper, "HIPAA 101 for Providers' Offices," HIPAA changes the way organizations deal with people's health care information. The law affects many health care industries -- health insurance plans, health care service providers (including hospitals and doctors and the companies that furnish information technology products and services to them.) As a result, HIPAA plays an important role in a wide range of organizations. This includes payers, providers, clearinghouses, health care information system vendors, billing agents and other service organizations.

HIPAA law and regulations apply to several different types of organizations commonly referred to as "covered entities". Specifically, a covered entity is an individual or group that transmits any health care information in electronic form in connection with a transaction covered by the Administrative Simplification portion of HIPAA. The law applies directly to three groups of "covered entities."

- Health Care Providers: Any provider of medical or other health services, or supplies, who transmits any health information in electronic form in connection with a transaction for which standard requirements have been adopted.
- Health Plans: Any individual or group plan that provides or pays the cost of health care.
- Health Care Clearinghouses: A public or private entity that transforms health care transactions from one form to another.

Standard Transactions

1. Claims or equivalent encounter information
2. Payment and remittance advice
3. Claim status inquiry and response
4. Eligibility inquiry and response
5. Referral certification and authorization inquiry and response
6. Enrollment and disenrollment in a health plan
7. Health plan premium payments
8. Coordination of benefits

Pending approval:

9. Claims attachments
10. First report of injury

Code Sets

1. Physician services/ other health services- **both HCPCS and CPT-4**
2. Medical supplies, orthotics, and DME- **HCPCS**
3. Diagnosis codes- **ICD-9-CM,Vols 1&2**
4. Inpatient hospital procedures– **ICD-9-CM,Vol 3**
5. Dental services– **Code on dental procedures and nomenclature**
6. Drugs/biologics– **NDC for retail pharmacy**

Does HIPAA apply to me?

It is important to note that HIPAA directly and indirectly affects many in the health care industry. For instance, software billing vendors and third party billing services that are not clearinghouses are not required to comply with the law; however, they may need to make changes in order to continue to do business with someone who is "covered" by HIPAA.

If you are a provider who conducts (or a third party biller or clearinghouse conducts on your behalf) one or more of the transactions listed on the left electronically you are most likely covered by HIPAA. (Note: Providers generally perform only the transactions listed below.)

- Claims or managed care encounter information
- Receive payment and remittance advice
- Claim status inquiry and response
- Eligibility inquiry and response
- Referral authorizations

Health care providers are not required by HIPAA to conduct any transaction electronically (though you may be required to file Medicare claims electronically, a topic discussed later in this paper). However, if you do conduct one or more of the above transactions electronically, you will need to start doing so in the HIPAA standardized electronic format.

What are Electronic Transactions?

Electronic transactions are activities involving the transfer of electronic information for specific purposes. As a provider you may have access to several sources of health care data that are moved electronically.

- Electronic Data Interchange (EDI)

HIPAA paves the way for standardization in the health care industry

Electronic Data Interchange (EDI) is the leading media for electronic transactions. It is the term used for the technology that allows for the movement of electronic data between two entities. For example, if you send claims electronically to a payer you are using EDI technology. To simplify this EDI process, HIPAA identifies sets of data that form the ten standard transactions, such as claim or remittance advice. With HIPAA, a provider or payer would only need one method for translating the information received. The industry groups that HIPAA named as responsible for developing EDI standards are the ANSI Standards Development Organization (SDO) and the Data Content Committees (DCC). Together these groups form the Designated Standards Maintenance Organizations (DSMOs).

Sources of Electronic Media

- Electronic Data Interchange (EDI) technology
- The Internet & web-based applications
- Direct Data Entry (DDE) dial-up modem
- Sending a diskette/tape
- Using a credit card swipe machine /Point of Service (POS)
- Using "faxback" telephone voice response

Who is not covered by HIPAA?

- Workers compensation programs
- Property and casualty insurers
- Self - administered Health plans with fewer than 50 participants
- Providers who conduct **all** standard transactions by paper, telephone or FAX (from a dedicated fax machine)

For each transaction identified, there are standards that:

- specify the format,
- the data elements required to structure the format,
- the data content required for each of the transactions.

TIP: Direct Data Entry systems must comply with HIPAA's content requirements. Find out if your health plans will continue to offer and support their Direct Data Entry applications.

➢ Web-based Applications

In addition to EDI, some health plans and payers provide web-based applications that allow a provider to enter transaction data. These applications enable your office to transmit electronic information via the Internet. For example, if you check a patient's eligibility for health insurance by using a computer that sends information across the internet, you are conducting an electronic transaction.

➢ Direct Data Entry (DDE)

Direct data entry (DDE) is a way for providers to key data directly into a computer screen or web browser form and send it immediately to a health plan's computer. Many payers supply a "dumb" terminal that is connected directly to their mainframe computer. The terminal is in essence a remote extension of the payers computer system. The provider keys in one claim at a time for immediate transmission into the health plan's or payer's computer. This type of direct data entry screens must adhere to the HIPAA data content requirements. However, if the data is directly entered into a system and is transmitted later to the health plan, the transaction must be sent in the full format and content standard.

Any other transmission of HIPAA transactions by EDI, web-based applications, or any other covered electronic media listed in the box to the left, must be accomplished using HIPAA standards.

Are all providers covered by HIPAA?

Most providers are covered by HIPAA. However, if you are a provider and do not conduct any of the covered transactions electronically, as described above, then you may not be covered by HIPAA. In other words, if your office's business activities and health care transactions are **all** conducted by paper, telephone or FAX (from a dedicated fax machine, as opposed to faxing from a computer,) HIPAA does not apply to you and you are not required to meet the other HIPAA requirements like privacy and security.

Free Information & Tools Available at the CMS Web Site

http://www.cms.hhs.gov/hipaa/hipaa2

- Covered entity decision tool
- Provider readiness checklist
- CMS Outreach ListServe
- HIPAA roundtable audio conference dates
- HHS HIPAA links
- Instructional CDs & videos
- HIPAA FAQs & compliance dates
- Complaint submission form

For HIPAA Privacy inquires

- http://www.hhs.gov/ocr/hipaa/

or call the Privacy hotline at :

1-866-627-7748

Covered entity final review:

Are you a provider who must comply with HIPAA? Do you or does your organization:

- ❑ **Provide health care?**
  Common examples include physicians, dentists, nurses, mental health providers, radiology centers, laboratories, pharmacies, durable medical equipment providers, hospitals, and other types of health care providers. Also included are services that are not commonly thought of as "health care" such as ambulance companies, home health workers, case managers, and social workers.

- ❑ **Conduct one or more standard HIPAA transactions?** (or pay someone to conduct on your behalf, such as a billing service or clearinghouse?) Refer to the list of Standard Transactions listed on page two of this paper.

- ❑ **Transmit or receive standard transactions in electronic form?** (or pay someone that transmits your transactions in electronic form, such as a billing service or clearinghouse?) Review the types of electronic media used in your organization.

If you checked all three boxes, then you are likely a provider who is a covered entity. Covered providers are subject to all HIPAA regulations --transactions, privacy, security, identifiers, and any others to come.

New Medicare electronic requirements

HIPAA provides a standardized, effective means for physicians, practitioners, suppliers, and other health care providers to submit Medicare claims electronically to all payers with which they interact.

Effective October 16, 2003 - Medicare will require that all Medicare claims be submitted electronically, with the exception of those from small providers and under certain limited circumstances.

Effective October 16, 2003, HIPAA law requires that all claims submitted to Medicare be submitted electronically in the HIPAA standard format. At that time, Medicare will no longer accept paper claims (with the exception of certain small providers and other limited circumstances.) The rule detailing the new Medicare electronic requirement is currently being finalized. You will receive more information on this provision in upcoming Medicare provider bulletins.

HIPAA Deadlines

April 14, 2003
Privacy Deadline

April 16, 2003
Testing

You should start testing your software no later than April 16, 2003.

October 16, 2003
Electronic Transactions & Code Sets Deadline

NOTE: Medicare will require that all Medicare claims be submitted electronically, with the exception of those from small providers and under certain limited circumstances.

April 21, 2005
Security Deadline

(April 21, 2006 for small plans)

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TIP: You may also sign up for the HIPAA regulation ListServe at: http://www.cms.hhs.gov/hipaa/hipaa2/regulations/lsnotify.asp. This email service will notify you when any HIPAA regulations are published.

The new Medicare electronic requirements will reduce the administrative burden and paperwork associated with Medicare claims submission. Moving from paper to electronic claims has the potential for significant savings and efficiencies for Medicare physicians, suppliers, and other health care providers – as well as for the Medicare program itself.

TIP: CMS offers providers free and low cost Medicare billing software, visit: http://www.cms.hhs.gov/providers/edi for more information.

Please note that this provision only applies to Medicare claims. However, it does not prevent any providers from submitting paper claims to other health plans that accept paper claims. Also note that health plans are not required to accept paper claims and most are moving to the more efficient and cost effective electronic methods.

Medicare small providers and suppliers

HIPAA law provides an exception for small providers and suppliers who meet specific size requirements. The following small providers and suppliers may continue to submit paper claims to Medicare.

TIP: [from the SSA Sec. 1861 (u)] The term "provider of services" means a hospital, critical access hospital, skilled nursing facility, comprehensive outpatient rehabilitation facility, home health agency, hospice program, or, for purposes of section 1814(g) and section 1835(e), a fund.

The law defines a small provider or supplier as:

- A provider of services with fewer than 25 full-time equivalent employees, or
- A physician, practitioner, facility or supplier (other than a provider of service) with fewer than 10 full-time equivalent employees.

Be aware that even small providers and suppliers, as defined above, are still subject to HIPAA requirements if they are "covered entities". For example, you may be a physician with fewer than 10 employees who submits claims to Medicare electronically. In this case, you are also a covered entity under HIPAA.

Likewise, you may be a small provider who currently submits only paper claims to Medicare. However, you check a patient's eligibility for Medicare electronically. You are also a "covered entity" and must comply with HIPAA's other requirements, such as privacy and security.

Q & A

Q. Does HIPAA only apply to those who bill Medicare and Medicaid?

A. NO. HIPAA is a law that applies to the public and private health care systems.

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Q. Does HIPAA require health care providers to conduct all electronic transactions electronically?

A. NO. HIPAA does not require a health care provider to move from a paper office to an electronic office. It does require a provider to submit claims electronically to Medicare, with the exception of those from small providers and under certain other limited circumstances.

What if I go back to submitting claims on paper?

TIP: Paper claims are quickly being replaced by new technologies in electronic data interchange (EDI) and the Internet.

While you and other health care providers could revert to conducting solely paper transactions – doing so would have many negative effects for most providers. Your business processes would be disrupted by having to prepare paper claims and check eligibility and claim status by phone. Reverting to paper would cause particular problems for those providers who receive Medicare payments.

First, these providers would experience delays in receiving payments, because Medicare by law cannot pay paper claims until 28 days after receipt (as opposed to 14 days for electronic claims.) Second, effective October 16, 2003, Medicare is prohibited by law from paying paper claims except for those from small providers and under certain other limited circumstances. After that date, any provider that does not meet the "small provider" or other exception would have to return to electronic claims submission in order to continue to receive Medicare reimbursement. At that time, the provider would again be required to comply with the Privacy rule requirements.

Perhaps most importantly, electronic transactions can eliminate the inefficiencies of handling paper documents. They can reduce administrative burden, lower operating costs and improve overall data quality – significant benefits for today's health care providers.

FOR MORE INFORMATION ABOUT HIPAA…

Log onto the CMS HIPAA web site:
http://www.cms.hhs.gov/hipaa/hipaa2

E-mail your questions to askhipaa@cms.hhs.gov

Call the CMS HIPAA HOTLINE 1-866-282-0659